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DEMETRIC DI-AZ and OWEN DIAZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**PLAINTIFFS' OBJECTION TO ONE
ALLEGED REFERENCE DEMETRIC DI-
AZ REAPPLYING TO TESLA AFTER HE
WAS TERMINATED**

Pretrial Conference Date: 09-21-21
Time: 3:00 p.m.

Trial Date: September 24, 2021
Complaint filed: October 16, 2017

Plaintiff Owen Diaz hereby objects to Defendant Tesla's reference to an event that is at
best contested and for which there is no admissible evidence designated. In Page 7 of its'
Opening Powerpoint attached as Exhibit 1, Defendant refers to an event relating to Demetric Di-

1 Az being terminated by West Valley Staffing with a reference to Exhibit 5 and 369.

2 Immediately after that reference point, Defendant states in red letters:

3 **Oct 26, 2015: Demetric applies directly to Tesla for**
4 **employment.**

5 Tesla cites no evidence to support this. More importantly, there is no exhibit that will support
6 this. At his deposition, Mr. Demetric Di-Az was asked about a Tesla document that purported to
7 reference his applying for a position at Tesla on October 26, 2015. Here is that testimony.

8 Page 47, Demetric Di-Az, Volume I

9 18 (EXHIBIT 9 was marked for identification.)

10 19 BY MS. ANTONUCCI:

11 20 Q. Did you apply for a position with Tesla as an

12 21 associate product excellence engineer power train on

13 22 October 26th, 2015?

14 23 A. Not that I can recall.

15 24 Q. I'm turning -- Exhibit 9 is, again, a printout

16 25 from Tesla's application system, which is Bates-stamped

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18 1 at the bottom 146 to 152.

19 2 Do you see there at the top where it says

20 3 "Associate product excellence engineer power train," at

21 4 the top of 146?

22 5 A. Yes.

23 6 Q. And do you see there on the right it says "date

24 7 applied 10/26/2015"?

25 8 A. Yes.

26 9 Q. And is that your name at the top, Demetric G.

27 10 Di-az?

28 11 A. Yes.

12 Q. Does this refresh your recollection as to

1 13 whether or not you applied for a job as an associate
2 14 product excellence engineer with power train in October
3 15 of 2015?

4 16 A. No, it doesn't.

5 17 Q. Do you have any reason to believe that Tesla's
6 18 applicant records are inaccurate?

7 19 A. I don't remember ever doing this application.

8 20 Somebody could have did it for me. I don't remember.

9 21 Q. Do you remember ever applying for a position at
10 22 Tesla at any time in October 2015?

11 23 A. No.

12 24 Q. Do you remember applying for a position with
13 25 Tesla at any time after you stopped working for West

14 Page 49

15 1 Valley?

16 2 A. No.

17 3 MR. ORGAN: Counsel, can we take a break?

18 4 MS. ANTONUCCI: Do you see here at the top of
19 5 the page where it says "product associate assembly
20 6 line"?

21 7 THE WITNESS: Yes.

22 8 BY MS. ANTONUCCI:

23 9 Q. And do you see that the date applied is
24 10 10/26/2015?

25 11 A. Yes.

26 12 Q. Did you apply for a position with Tesla as a
27 13 production associate assembly line on October 26th,
28 14 2015?

15 A. I don't remember.

1 16 Q. You don't remember?

2 17 A. Yes.

3 18 Q. But it's possible you did?

4 19 A. I said before I don't remember. Somebody could
5 20 have did it for me. I don't remember applying.

6 21 Q. Do you have any reason to believe that Tesla's
7 22 candidate records regarding your application as
8 23 production associate assembly line are inaccurate?

9 24 MR. ORGAN: Objection. Vague and ambiguous.

10 25 THE WITNESS: I don't know.

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12 1 BY MS. ANTONUCCI:

13 2 Q. Did you ever ask anybody to apply for a position
14 3 for you at Tesla?

15 4 A. No.

16 5 Q. Do you remember having an interview with Tai Hua
17 6 at Tesla?

18 7 A. No.

19 8 Q. Do you ever remember speaking to Tai Hua as
20 9 Tesla?

21 10 A. No.

22 11 Q. Do you remember ever having an interview with
23 12 anybody at Tesla for a job?

24 13 A. No.

25 14 Q. Do you remember ever telling anybody at Tesla
26 15 that you plan on furthering your education to pursue a
27 16 degree in engineering?

28 17 A. Yes. But that's not my choices now for my
18 career.

1 19 Q. Okay. But you do remember telling someone at
2 20 Tesla that you wanted to pursue a career in engineering?

3 21 A. I remember saying I wanted to pursue a career in
4 22 engineering.

5 23 Q. To someone at Tesla?

6 24 A. I just remember saying I wanted to pursue a
7 25 career in engineering.

8 Page 51

9 1 Q. Who did you say that to?

10 2 A. I told a few different people that.

11 3 Q. Who did you tell that you wanted to pursue a
12 4 career in engineering?

13 5 A. I told my mom. I told my dad. I told a few
14 6 different people that. It didn't go the way I wanted it
15 7 to go. It doesn't seem like it's the thing for me. I'm
16 8 studying sociology.

17 9 Q. Did you ever tell anyone at West Valley you
18 10 wanted to pursue a career in engineering?

19 11 A. Not that I can recall.

20 12 Q. Did you ever tell anyone at Tesla you wanted to
21 13 pursue a career in engineering?

22 14 A. Not that I can recall.

23 15 Q. Do you remember saying, "I know I'm a great fit
24 16 for this job. I'm a team player, determined, and will
25 17 put forth a hundred percent towards this job"?

26 18 A. I don't remember saying --

27 19 Q. Do you remember submitting a cover letter to
28 20 Tesla in October of 2015?

21 A. No.

1 The deposition excerpt from Demetric Di-Az makes clear that he did not have any memor
 2 of submitting an application to Tesla in October 2015 and that he was not aware of someone
 3 submitting an application on his behalf. Defendant has not offered the exhibit 9, referenced in
 4 Mr. Diaz's deposition, as an exhibit.

5 The implication of this document goes to welcomeness in that a person who is exposed to
 6 a hostile work environment would not reapply to such place. But it does not go to prove Owen
 7 Diaz's view of the workplace which is the only relevant inquiry. Therefore, the probative value
 8 of the evidence which is low is substantially outweighed by the prejudicial value of the evidence
 9 which suggests that there was not a hostile work environment at Tesla or Demetric wouldn't
 10 have reapplied. In addition, there is no foundation or authentic evidence sot support this.
 11 Accordingly, Plaintiff asks the Court to prevent reference to this matter.

12
 13 CALIFORNIA CIVIL RIGHTS LAW GROUP
 14 ALEXANDER KRAKOW + GLICK LLP

15 DATED: September 23, 2021

16 By: /s/ Lawrence A Organ
 17 Lawrence A. Organ, Esq.
 18 Navruz Avloni, Esq.
 19 Cimone A. Nunley, Esq.
 20 J. Bernard Alexander, Esq.
 21 Attorneys for Plaintiffs
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